

colleagues with the gruesome details, but I do believe the Senate, and the American people, need to know of the abuse of the legal system by individuals convicted in courts of law for the most vile and violent crimes and I think it necessary to mention one more example.

Bernard Hamilton murdered a woman—the mother of two boys, one of whom was only 3 weeks old—in San Diego in May 1979. His victim disappeared on her way to class. She was last seen in her van in the parking lot of the school she attended.

Her body was later found with the head and hands removed; they have never been recovered. The body was clothed only in bra, underpants, and socks.

Bernard Hamilton was arrested in Oklahoma in possession of his victim's van and had been using her credit cards. He was convicted of first degree murder for this brutal crime.

After his first State habeas petition was denied he went to Federal court and last year two judges on the 9th Circuit ordered the sentence vacated on a claim that was rejected by six Justices on the California Supreme Court and one dissenting judge on the 9th Circuit.

This cold-blooded killer is now in the midst of a new penalty trial—more than 16 years after the murder.

To add insult to injury, Hamilton represented himself at his penalty retrial and blamed the victim's husband, who never recovered emotionally from the death of his wife before his own death last year.

For the victims of the kind of violent crimes I've just described, justice will not fully have been done until those responsible have been tried, convicted and the death penalty imposed and swiftly carried out.

I am very pleased to say that the habeas provision included in the bill currently under consideration by the Senate is designed to do just that. The habeas corpus provision is identical to those included in the anti-terrorism bill passed the Senate by a vote of 91 to 8 last June, and one I believe which strikes an appropriate balance between the need to assure due process to those convicted of both capital and non-capital crimes and the need of any rational judicial system to bring cases to closure.

Indeed, Mr. President, that is particularly important not only the integrity of our judicial system, but for the victims of capital cases.

Most importantly, Mr. President, this bill provides habeas petitioners with "one bite at the apple." It assures that no one convicted of a capital crime will be barred from seeking habeas relief in Federal court, and appropriately limits second and subsequent habeas appeals to narrow and suitable circumstances.

Furthermore, Mr. President, the bill requires States which provide for counsel that habeas appeals must be filed within 6 months of when a State pris-

oner's conviction becomes final, or in States where standard for the adequacy of counsel are not adopted, such appeals must be filed within 1 year.

Third, Mr. President, time limits are also imposed upon courts. The bill requires that Federal courts must act promptly on habeas appeals and establishes a mechanism by which courts of appeals will screen habeas petitions before they are permitted to go to a Federal District Court for resolution.

Finally, Mr. President, unlike the crime bill proposals that I and the Nation's law enforcement officials opposed two years ago, this bill does not dictate to the States precisely what counsel competency standards are adopted. Rather, it properly provides states with an incentive to formulate their own plans by making expedited time tables I have just described available for states to do so.

Mr. President, the time for habeas corpus reform is long overdue. Too many of our streets are dangerous, too many of our citizens are scared, too many of our courts are clogged with endless, meritless prisoner appeals. I urge my colleagues to support the habeas corpus reform provisions in this bill.

I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Indiana [Mr. LUGAR], is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA], and the Senator from California [Mrs. BOXER], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 49, nays 47, as follows:

{Rollcall Vote No. 569 Leg.}

YEAS—49

Abraham	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Pressler
Bond	Grams	Roth
Brown	Grassley	Santorum
Burns	Gregg	Shelby
Campbell	Hatch	Simpson
Chafee	Hatfield	Smith
Coats	Helms	Snowe
Cochran	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Mack	Warner
Domenici	McCain	
Faircloth	McConnell	

NAYS—47

Baucus	Ford	Levin
Biden	Glenn	Lieberman
Bingaman	Graham	Mikulski
Bradley	Harkin	Moseley-Braun
Breaux	Heflin	Moynihan
Bryan	Hollings	Murray
Bumpers	Inouye	Nunn
Byrd	Jeffords	Pell
Cohen	Johnston	Pryor
Conrad	Kassebaum	Reid
Daschle	Kennedy	Robb
Dodd	Kerrey	Rockefeller
Dorgan	Kerry	Sarbanes
Egon	Kohl	Simon
Feingold	Lautenberg	Wellstone
Feinstein	Leahy	

NOT VOTING—3

Akaka	Boxer	Lugar
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So the bill (H.R. 2586), as amended, was passed.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, there will be no more votes this evening. There will be a number of votes on Monday.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT

AGREEMENT—H.R. 2491

Mr. DOLE. Mr. President, I ask unanimous consent that at 10 a.m. on Monday, November 13, the Chair lay before the Senate a message from the House on H.R. 2491, the reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate then insist on its amendment, agree to the House request for a conference, and prior to the Chair being authorized to appoint conferees on the part of the Senate, that there be four motions to instruct the conferees, which under the statute are limited to 1 hour each, and that the time to be divided: 40 minutes for the offeror of the motion; 20 minutes for Senator DOMENICI or his designee. Those motions are as follows: A motion to instruct regarding Social Security; a motion to instruct regarding health care; a motion to instruct regarding Medicare tax cuts; a motion to instruct regarding nursing standards.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I further ask unanimous consent that following disposition of the motion to instruct,

the Chair be authorized to appoint conferees on the part of the Senate, without any further debate or action.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT—H.R. 927

Mr. DOLE. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 927, the Cuba sanctions bill, for the appointment of conferees at 2 p.m. on Monday, November 13, and any votes ordered will commence at 5:30 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CONTINUING RESOLUTION AND THE LABOR, HHS AND EDUCATION APPROPRIATIONS BILL, H.R. 2127

Mr. SPECTER. Mr. President, as chairman of the Labor, HHS and Education Appropriations Subcommittee, I wanted to take a minute to update the Senate on the status of the Labor, HHS and Education appropriations bill, H.R. 2127 as it relates to the continuing resolution and the implications of the Senate's inaction on the bill for programs of the Departments of Labor, HHS and Education.

As Senators know, the Labor, HHS and Education Appropriations bill for fiscal year 1996 is still on the calendar. Efforts to bring it up in the Senate have been met with a filibuster due to the "striker replacement" provision. I opposed that provision being added to the bill in committee, because of the view that controversial legislative riders do not belong on an appropriation bill, but should be considered through the authorization process. In the case of the Labor, HHS and Education Appropriations bill, the legislative riders included by the House have stalled action on this important bill in the Senate, and indefinitely postponed funding for education, health, job training, and social service programs in this fiscal year.

While the continuing resolution will ensure that some funding will be available for these programs, it is only on a short-term basis and at a minimal level. For example, a central difference between the House passed and the committee reported bills involves funding for the Low Income Home Energy Assistance Program [LIHEAP]. LIHEAP provides funds to states to help low income households meet their fuel bills during the winter months when costs soar due to cold weather. A high percentage of the program's beneficiaries are elderly and disabled people who need help in paying their fuel bills.

Mr. President, it is already getting very cold in many parts of the Nation, with a major Canadian cold front making early November feel like winter in much of the midwest and northeast. Under the terms of the continuing resolution, less than \$200 million will have been made available to the States. This is far short of the \$600 million requested by the States to get through the first quarter of the fiscal year. This comports with the historic average of 60 percent of the annual appropriation for LIHEAP being allocated to the States in the first quarter.

Many States have begun receiving requests for assistance, and under normal circumstances would begin distributing funds to participants at this time. However, because of the present stalemate in the Senate on the Labor, HHS and Education Appropriations bill, States have no idea how to plan for this winter's program, and hundreds of thousands of low income families are left wondering how they will be able to meet their winter heating bills. Low income households, as well as Governors and local officials across the country are waiting to learn whether, and how much, funding will be appropriated for this winter's LIHEAP program.

Funding for education programs also are held hostage to the stalemate on H.R. 2127. Education program funding levels recommended by the House fall almost \$3.6 billion below the fiscal year 1995. The Senate bill, as reported by the Appropriations Committee on September 15, includes funding for education programs which is \$1.6 billion above the House passed levels. Under the terms of the CR, however, the lower levels of the House bill become the funding levels for the upcoming period of the CR. Absent action on the Senate bill, and a conference with the House, future funding levels for these education programs likely will continue at House passed levels.

Finally, Mr. President, the terms of the CR maintain funding for medical research supported by the National Institutes of Health at the 1995 level of \$11.3 billion. But, there is clear consensus between the Congress and the President that medical research is a priority, deserving of increased funding in fiscal year 1996. Despite a 7-percent reduction in the subcommittee's allocation, the President's budget, the

House passed bill, and the Senate reported bill, nonetheless recommended increases for NIH of no less than \$300 million. Without Senate action on the Labor, HHS and Education appropriations bill, medical research funding will be frozen indefinitely, thereby stalling new discoveries for understanding the causes and cures of diseases.

I will support this continuing resolution because it provides critical short-term funding for Federal activities. But I also want to make clear, it is time for the Senate to act on the Labor, Health and Human Services, and Education appropriations bill. Let us stop the filibuster, agree to bring up the bill, debate it, and let the Senate work its will. The critical programs in this bill deserve the attention and debate of the Senate. The American people are waiting for the Congress to complete its work.

EPA ENFORCEMENT NEEDS SCRUTINY

Mr. DORGAN. Mr. President, I have supported policies to protect our country's environment, and I have backed the Environmental Protection Agency's efforts to enforce environmental laws. It is not a coincidence that we now use twice as much energy in America than we did 20 years ago and yet we have both cleaner air and cleaner water. That results from the determination by our country and the Congress to place limitations on those who are dumping pollutants into our rivers, streams, and lakes, and into our air.

This is a success story. We have made real progress in our fight to clean up our environment.

I am proud of my support for those efforts. But, Mr. President, I have come to the floor of the Senate today to discuss a couple of cases dealing with environmental protection that concern me. There are occasions, I am certain, where enforcement actions taken by those who are given police powers to make sure our environment is protected, become unfair, unreasonable and, in some cases, downright punitive.

Two such legal actions have been filed against two North Dakota manufacturing companies and I want to discuss them today. Because they involve an important matter of public policy, I want to offer my opinions on them.

Both of these examples are enforcement proceedings involving the EPA and now also entail filings in court. As a result, I am unable to pursue the matter further directly with the Agency. I regret that because I would like the opportunity to sit down in person and review in detail, with officials at EPA and with the officials in the two North Dakota companies, EPA's justifications for taking the kind of action it has taken against these firms.

So my alternative is to discuss these cases on the floor of the Senate and use information that is on public file in the two court actions and information that